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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Crystal Lovelady  
Plaintiff,  
v.

General Business Recoveries, Inc.,  
and Experian Information Solutions,  
Inc.

Defendants.

Case No.: 4:23-cv-00136-SHR

**DEFENDANT EXPERIAN  
INFORMATION SOLUTIONS,  
INC.'S MOTION FOR SUMMARY  
JUDGMENT**

Oral Argument Requested

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Pursuant to Fed. R. Civ. P. 56, Defendant Experian Information Solutions, Inc. (“Experian”), by and through its undersigned counsel, respectfully moves for summary judgment against the claims of Plaintiff Crystal Lovelady (“Plaintiff”). This Motion is supported by the following memorandum of points and authorities, the contemporaneously filed statement of facts (“SOF”), and the exhibits and declarations of Teresa Iwanski and Madison R. Way attached thereto.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **INTRODUCTION**

Plaintiff’s case against Experian is replete with flaws. One threshold problem dooms it from the start: a factual “inaccuracy” does not exist. The account at issue is a collection account from General Business Recoveries (“GBR”) for a debt incurred by Plaintiff’s husband, Joshua J. Lovelady. This debt was properly and accurately reported as a joint responsibility between Plaintiff and her husband as it is a community debt under Arizona law. As soon as Plaintiff learned about the GBR tradeline, she contacted GBR and was told as much. Nevertheless, Plaintiff eschewed disputes with the furnisher and collaterally attacked the debt through a reinvestigation claim with Experian.

Because Plaintiff cannot overcome the threshold element of establishing a factual inaccuracy, her 15 U.S.C. §§ 1681e(b) and 1681i claims must fail. And even if Plaintiff could establish a factual inaccuracy, her claims would still fall short because she cannot establish that Experian failed to maintain reasonable procedures or to conduct a reasonable reinvestigation. She is similarly unable to show that Experian acted willfully. For all these reasons, as set forth in more detail below, summary judgment should be entered in favor of Experian on all claims.

### **STATEMENT OF FACTS**

#### **I. THE GBR ACCOUNT**

On April 28, 2021, Plaintiff’s husband Joshua J. Lovelady (“Mr. Lovelady”) underwent a root canal at Southern Arizona Endodontics (“Southern”). (SOF at ¶¶

**GENERAL BUSINESS RECOVERIES** Partial Acct # D788545N1 **Status (Apr 2022)** Collection account. \$447 past due as of Jul 2022.

2033 E SPEEDWAY BLVD STE 103 TUCSON AZ 85719; (520) 622 4441

<b>Date opened</b> Apr 2022  <b>Address ID #</b> 0588390636  <b>Original creditor</b> SOUTHERN AZ ENDODONTICS  <b>Type</b> Collection  <b>Responsibility</b> Joint with JOSHUA L LOVELADY	<b>Terms</b> 1 Months  <b>Monthly payment</b> Not reported  <b>Credit limit or original amount</b> \$316  <b>High balance</b> Not reported	<b>Recent balance</b> \$447 as of Jul 2022  This account is scheduled to continue on record until Feb 2028.	<b>Payment history:</b> May 2022 - Jul 2022  <table border="0" style="width: 100%;"> <tr> <td style="text-align: center;">JAN</td> <td style="text-align: center;">FEB</td> <td style="text-align: center;">MAR</td> <td style="text-align: center;">APR</td> <td style="text-align: center;">MAY</td> <td style="text-align: center;">JUN</td> <td style="text-align: center;">JUL</td> <td style="text-align: center;">AUG</td> <td style="text-align: center;">SEP</td> <td style="text-align: center;">OCT</td> <td style="text-align: center;">NOV</td> <td style="text-align: center;">DEC</td> </tr> <tr> <td colspan="4"></td> <td style="text-align: center;">2022</td> <td style="text-align: center;">C</td> <td style="text-align: center;">C</td> <td style="text-align: center;">C</td> <td colspan="4"></td> </tr> </table> <table border="0" style="width: 100%;"> <tr> <td></td> <td style="text-align: center;">Jun22</td> <td style="text-align: center;">May22</td> </tr> <tr> <td>Account Balance</td> <td style="text-align: right;">\$443</td> <td style="text-align: right;">\$438</td> </tr> <tr> <td>Debit Payment Received</td> <td style="text-align: right;">No Data</td> <td style="text-align: right;">No Data</td> </tr> <tr> <td>Scheduled Payment</td> <td style="text-align: right;">No Data</td> <td style="text-align: right;">No Data</td> </tr> <tr> <td>Actual Amount Paid</td> <td style="text-align: right;">No Data</td> <td style="text-align: right;">No Data</td> </tr> </table> <p><small>The original amount of this account was \$316.</small></p>	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC					2022	C	C	C						Jun22	May22	Account Balance	\$443	\$438	Debit Payment Received	No Data	No Data	Scheduled Payment	No Data	No Data	Actual Amount Paid	No Data	No Data
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## II. PLAINTIFF'S DISPUTES

EXPERIAN'S MOTION FOR  
SUMMARY JUDGEMENT  
Case No. 4:23-cv-00136-SHR



1 that she “was never notified by anyone of its existence.” (*Id.* at ¶ 12.) Plaintiff did  
 2 not attach any documents to her dispute letter, and Plaintiff did not send additional  
 3 dispute letters to Experian regarding the GBR account. (*Id.* at ¶ 13)

4 In response to Plaintiff’s letter, Experian reviewed the disputed information  
 5 and contacted GBR using an Automated Consumer Dispute Verification, or  
 6 ACDV, which summarized Plaintiff’s dispute, provided GBR with the account  
 7 information appearing in Plaintiff’s credit file, and attached Plaintiff’s September  
 8 7, 2022 Dispute letter. (*Id.* at ¶ 14.)

9 GBR responded to Experian’s ACDV on September 29, 2022, verifying that  
 10 Plaintiff was responsible for the account. (*Id.* at ¶ 15.) Experian sent Plaintiff the  
 11 results of its reinvestigation on September 29, 2022, noting that GBR “has certified  
 12 to Experian that the information is accurate.” (*Id.* at ¶ 16.) The tradeline remained  
 13 in Plaintiff’s credit file with its “Responsibility” listed as “Joint” with Mr.  
 14 Lovelady. (*Id.* at ¶ 17.) The September 2022 Dispute Results further instructed  
 15 Plaintiff on actions she could take if she disagreed with the results of Experian’s  
 16 reinvestigation, including by providing Experian with additional documentation or  
 17 adding a statement of dispute explaining her position with respect to the account.  
 18 (*Id.* at ¶ 18.) Plaintiff received the September 2022 Dispute Results stating she  
 19 could provide additional information, but she did not do so. (*Id.* at ¶ 19.)

### 20 **LEGAL STANDARD**

21 A motion for summary judgment should be granted if “there is no genuine  
 22 dispute as to any material fact and the movant is entitled to judgment as a matter of  
 23 law.” Fed. R. Civ. P. 56(a); *Addisu v. Fred Meyer, Inc.*, 198 F.3d 1130, 1134 (9th  
 24 Cir. 2000). A “material” fact is one that may affect the outcome of the suit under  
 25 governing law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A  
 26 “genuine” issue exists only where there is sufficient evidence that a reasonable jury  
 27 could return a verdict for either party. *See id.* Mere arguments or allegations are  
 28 insufficient to defeat a properly supported motion for summary judgment; the

1 nonmovant must present more than a scintilla of evidence and must advance  
 2 specific facts to create a genuine issue of material fact for trial. *See* Fed. R. Civ. P.  
 3 56(e); *Anderson*, 477 U.S. at 248–51. “Where the record taken as a whole could  
 4 not lead a rational trier of fact to find for the non-moving party,” summary  
 5 judgment should be entered in the movant’s favor. *Matsushita Elec. Indus. Co. v.*  
 6 *Zenith Radio Corp.*, 475 U.S. 574, 586–87 (1986).

## 7 **ARGUMENT**

### 8 **I. PLAINTIFF CANNOT ESTABLISH THAT EXPERIAN’S** 9 **REPORTING WAS INACCURATE.**

10 To make out a prima facie violation under either 15 U.S.C. § 1681e(b) or  
 11 § 1681i, a consumer must establish that a credit reporting agency prepared a report  
 12 containing inaccurate information. *Guimond v. Trans Union Credit Info. Co.*, 45  
 13 F.3d 1329, 1333 (9th Cir. 1995); *Butler v. Equifax Info. Servs., LLC*, No. EDCV  
 14 18-2084 JGB (SHKx), 2019 WL 2498939, at \*2 (C.D. Cal. Apr. 3, 2019). Plaintiff  
 15 cannot make this threshold showing for two reasons. First, the reporting was  
 16 accurate because the debt for Mr. Lovelady’s dental care is a community debt under  
 17 Arizona law, meaning that Plaintiff and Mr. Lovelady are jointly liable for the debt,  
 18 just as Experian reported. Second, to the extent Arizona law leaves any doubt that  
 19 Plaintiff is jointly liable for her husband’s medical debt, her claims present a  
 20 disputed legal question, not a factual inaccuracy cognizable under the Fair Credit  
 21 Reporting Act (“FCRA”). Thus, Plaintiff’s claims fail as a matter of law.

#### 22 **A. Mr. Lovelady’s Medical Debt Was Community Property Under** 23 **Arizona Law.**

24 Arizona is a community property state. That means that the property  
 25 acquired by either spouse during marriage “is the community property of the  
 26 husband and wife.” Ariz. Rev. Stat. § 25-211(A). Conversely, “all debts incurred  
 27 during marriage are presumed to be community obligations unless there is clear  
 28 and convincing evidence to the contrary.” *Schlaefel v. Fin. Mgmt. Serv., Inc.*, 196

1 Ariz. 336, 339 (Ct. App. 2000); *see also* *Cardinal & Stachel, P.C. v. Curtiss*, 225  
 2 Ariz. 381, 384 (Ct. App. 2010) (holding that a debt is a community obligation so  
 3 long as, by incurring the debt, “some benefit was intended for the community”—  
 4 *i.e.*, the married couple as a unit). Necessary medical care provided to one spouse  
 5 “is presumed to be intended to benefit the community,” and is thus a community  
 6 debt. *Samaritan Health Sys. v. Caldwell*, 191 Ariz. 479, 482 (Ct. App. 1998)  
 7 (internal quotes removed); *see also* *Phoenix Baptist Hosp. & Med. Ctr., Inc. v.*  
 8 *Aiken*, 179 Ariz. 289, 294 (Ct. App. 1994) (“[T]he provision of medical care to [a  
 9 spouse is] a community obligation.”). Arizona law requires that spouses “be sued  
 10 jointly” in any action to collect on a community obligation. Ariz. Rev. Stat. § 25-  
 11 215(D).

12 The facts relevant to determining accuracy are undisputed. Mr. Lovelady  
 13 received a root canal on April 28, 2021, incurring a debt of \$431.70. (SOF at ¶¶  
 14 2–4.) That debt has never been paid and was sent to collections in 2022. (*Id.* at ¶  
 15 4, 6.) Mr. Lovelady and Plaintiff were married at the time of the root canal (and  
 16 remain married) (*Id.* at ¶ 5), meaning that the unpaid \$431.70 debt is a community  
 17 obligation for which Arizona law makes them jointly liable. *See* Ariz. Rev. Stat. §  
 18 25-215(D). By including the GBR account on Plaintiff’s credit report and  
 19 identifying it as a joint debt with Mr. Lovelady, Experian accurately communicated  
 20 that Plaintiff, like her husband, is liable for the unpaid debt. *See* 12 C.F.R.  
 21 § 1022.41(a) (defining accuracy, for purposes of furnishing information to the  
 22 CRAs, as “[r]eflect[ing] the terms of and liability for the account or other  
 23 relationship”).

24 *Morse v. USAA Fed. Sav. Bank* is instructive. No. 2:12-CV-00381-KJD,  
 25 2012 WL 6020090 (D. Nev. Dec. 3, 2012). In *Morse*, the consumer brought an  
 26 FCRA claim against the furnisher, USAA, for reporting that she was jointly  
 27 responsible for a credit card her husband opened during their marriage. *Id.* at \*1.  
 28 Although the credit card debt was assigned to the husband through their subsequent

1 divorce, the Court held that it was not inaccurate for USAA to report the account  
2 on the consumer's credit report largely because, in Nevada "debts incurred during  
3 marriage are presumed to be community debts, for which each spouse is liable . . .  
4 even after a decree of divorce assigns debt to one spouse." *Id.* at \*3; *see also*  
5 *Krieger v. Cap. One*, No. 2:13-CV-01389-LDG, 2014 WL 1305020, at \*2 (D. Nev.  
6 Mar. 28, 2014) (finding that it was not inaccurate for furnisher to report wife's  
7 credit card as a personal liability of the plaintiff because, although wife had  
8 discharged *her* personal liability through bankruptcy, "in a community property  
9 state such as Nevada," such a discharge "is not a discharge of the non-filing  
10 spouse's personal liability").

11 The accuracy question here, where there has been no divorce and no single-  
12 spouse bankruptcy, is even more straightforward than in *Morse* or *Krieger*. The  
13 GBR account is a community obligation, Plaintiff is liable for the debt, and  
14 Experian's reporting is accurate. Plaintiff cannot show otherwise. Rather, what  
15 Plaintiff essentially wants is for Arizona to not be a community property state.  
16 That, however, is something to take up with the Arizona legislature, not Experian.

17 **B. Plaintiff's Dispute to Experian was an Improper Collateral**  
18 **Attack on the GBR Debt.**

19 Even if there were a question as to whether Mr. Lovelady's medical debt was  
20 a community obligation, resolving that question would require adjudication of  
21 disputed legal issues, demonstrating that the inaccuracy alleged by Plaintiff is  
22 legal—not factual—in nature and therefore not cognizable under 15 U.S.C.  
23 §§ 1681e(b) or 1681i.

24 It is well established that a consumer may not collaterally attack the legal  
25 validity of a debt through a FCRA claim against a consumer reporting agency  
26 ("CRA") like Experian. *See, e.g., Carvalho v. Equifax Info. Servs., LLC*, 629 F.3d  
27 876, 891 (9th Cir. 2010). In *Carvalho*, the consumer challenged the CRA's report  
28 that she had an unpaid medical debt because she asserted "that she was not legally

obligated to pay the [debt] until [the medical provider] had properly billed her insurer.” *Id.* The Ninth Circuit held that the CRA’s reporting was not inaccurate because the consumer’s dispute was, at heart, a legal defense to payment that presented “‘a question for a court to resolve in a suit against the [creditor,] not a job imposed upon consumer reporting agencies by the FCRA.’” *Id.* (quoting *DeAndrade v. Trans Union LLC*, 523 F.3d 61, 68 (1st Cir. 2008)). Courts across the country have adopted the same rule. *See, e.g., Humphrey v. Trans Union LLC*, 759 F. App’x 484, 488 (7th Cir. 2019) (“CRAs are not a tribunal sitting to resolve legal disputes.”); *Denan v. Trans Union LLC*, 959 F.3d 290, 296 (7th Cir. 2020) (explaining that CRAs “are neither qualified nor obligated to resolve legal issues”); *DeAndrade*, 523 F.3d at 68 (1st Cir. 2008) (finding a disputed mortgage was “not a factual inaccuracy that could have been uncovered by a reasonable reinvestigation, but rather a legal issue that a credit agency ... is neither qualified nor obligated to resolve under the FCRA”).

As in *Carvalho*, Plaintiff’s challenge presents a legal defense to payment of her husband’s medical debt that the FCRA does not require Experian to resolve. GBR has consistently affirmed its understanding that Plaintiff is liable for her husband’s root-canal debt and that it belongs on her credit report, both in direct communications to Plaintiff and in response to Plaintiff’s dispute to Experian. (SOF at ¶¶ 9, 14; *see also* Way Dec., Exh. B [Oulton Tr.], 21:7–14, 34:23–25, 35:1–2.) Plaintiff plainly disagrees, yet she and her husband abandoned any effort to resolve the issue directly with GBR about the account after an initial phone call because they found GBR’s representative to be “very rude.” (SOF at ¶ 20.) And “[e]ven though a court of law can resolve whether Plaintiff is responsible for” the GBR account, Plaintiff has never asked a court to do so. *Jones v. Pennsylvania Higher Educ. Assistance Agency*, No. 16-CV-00107-RSW-LAF, 2017 WL 4594078, at \*4 (C.D. Cal. July 24, 2017). This is presumably because Plaintiff knows that she would not like the answer. *Schlaefel v. Fin. Mgmt. Serv., Inc.*, a

1 rare (and possibly *sui generis*) Arizona appellate decision finding that one spouse  
 2 was not jointly liable for the other spouse's medical debt, is the exception that  
 3 proves the rule. 196 Ariz. 336, 339 (Ct. App. 2000). In *Schlaefer*, the court found  
 4 clear and convincing evidence that the medical debt was not a community  
 5 obligation because the couple had a premarital agreement that said so. Plaintiff and  
 6 Mr. Lovelady, by contrast, have no premarital agreement.

7       Regardless, Plaintiff's decision not to resolve her disagreement with GBR  
 8 means that the "the issue of Plaintiff's liability for the [GBR account] is not properly  
 9 settled or before the Court" in this FCRA action. *Jones*, 2017 WL 4594078, at \*4.  
 10 In *Jones*, the court rejected the consumer's FCRA claims because threshold legal  
 11 questions necessary to determine accuracy (including whether the disputed debt  
 12 was incurred during marriage, and thus a community obligation under California  
 13 law, or when the consumer and her spouse were living "separate and apart") had  
 14 not been resolved. *Id.* And *Jones* was a suit against a *furnisher*, which the court  
 15 acknowledged "'stands in a far better position to make a thorough investigation of  
 16 a disputed debt'" as compared with CRAs, which "should not be burdened with  
 17 establishing the validity of a consumer debt." *Id.* (quoting *Carvalho*, 629 F.3d at  
 18 892) (citation omitted).

19       In short, Plaintiff's assertion that she is not obligated to pay the GBR account  
 20 presents a legal question for which that Experian is not obligated to resolve under  
 21 the FCRA. *Carvalho*, 629 F.3d at 892. Thus, there was no factual inaccuracy and  
 22 Plaintiff's claims fail as a matter of law.

## 23 **II. PLAINTIFF CANNOT SHOW THAT EXPERIAN FAILED TO** 24 **FOLLOW REASONABLE PROCEDURES OR CONDUCT A** 25 **REASONABLE REINVESTIGATION.**

### 26 **A. Experian Followed Reasonable Procedures.**

27       To succeed on her 15 U.S.C. § 1681e(b) claim, Plaintiff must prove more  
 28 than the existence of inaccurate information on a consumer report. The FCRA does



1 not require CRAs to maintain error-free credit reports. *See Guimond*, 45 F.3d at  
 2 1333 (“The FCRA does not impose strict liability . . . an agency can escape liability  
 3 if it establishes that an inaccurate report was generated despite the agency’s  
 4 following reasonable procedures.”). Instead, the FCRA requires CRAs such as  
 5 Experian to maintain reasonable procedures to assure the maximum possible  
 6 accuracy of information contained in consumer reports. 15 U.S.C. § 1681e(b).  
 7 This section “relate[s] to the maintenance and operation of [a CRA’s] own internal  
 8 databases rather than to investigation of the accuracy of information received from  
 9 external sources.” *Grigoryan v. Experian Info. Sols., Inc.*, 84 F. Supp. 3d 1044,  
 10 1070 (C.D. Cal. 2014).

11 Consequently, “[i]f a consumer reporting agency accurately transcribes,  
 12 stores, and communicates consumer information received from a source that it  
 13 reasonably believes to be reputable, and which is credible on its face, the agency  
 14 does not violate [§ 1681e(b)] simply by reporting an item of information that turns  
 15 out to be inaccurate.” *Saenz v. Trans Union, LLC*, 621 F. Supp. 2d 1074, 1081 (D.  
 16 Or. 2007) (internal quotations and citations omitted). A credit reporting agency  
 17 acts reasonably “even if it reports inaccurate information, so long as it reasonably  
 18 believed the source to be reputable at the time it received the information.”  
 19 *Anthony v. Experian Info. Sols., Inc.*, No. 2:14-cv-1230, 2017 WL 1198499, at \*5  
 20 (E.D. Cal. Mar. 31, 2017); *see also Darrin v. Bank of Am., N.A.*, No. 2:12-cv-228,  
 21 2014 WL 1922819, at \*6 (E.D. Cal. May 14, 2014) (citing *Guimond*, 45 F.3d at  
 22 1333) (holding that plaintiff’s § 1681e(b) claim failed because the CRA relied upon  
 23 information from Bank of America (the creditor), and plaintiff presented no  
 24 evidence that Bank of America was not a reputable source); *see also* 16 C.F.R. 600,  
 25 § 607.3(A) (a CRA does not violate § 1681e(b) when it “accurately transcribes,  
 26 stores and communicates consumer information received from a source that it  
 27 reasonably believes to be reputable, and which is credible on its face”).  
 28

1 This authority is dispositive of Plaintiff's § 1681e(b) claim. It is undisputed  
 2 that Experian correctly reported the information furnished by GBR as it related to  
 3 Plaintiff's tradeline, and Plaintiff has not provided evidence (aside from Plaintiff's  
 4 disagreement with GBR's reporting) that GBR is not a reliable furnisher. As a  
 5 result, Plaintiff's 15 U.S.C. § 1681e(b) claim cannot succeed.

6 **B. Experian Conducted a Reasonable Reinvestigation Under 15**  
 7 **U.S.C. § 1681i(a)(1).**

8 Because Plaintiff has failed to meet her *prima facie* burden to show  
 9 inaccurate reporting, the Court does not need to reach questions about the  
 10 reasonableness of Experian's reinvestigation. *See Prianto v. Experian Info. Sols.,*  
 11 *Inc.*, No. 13-CV-03461-TEH, 2014 WL 3381578, at \*8 (N.D. Cal. July 10, 2014)  
 12 (absent an inaccuracy, "Experian had no duty to resolve the disputed legal validity  
 13 of the underlying debt or refrain from reporting on it"). Regardless, Plaintiff cannot  
 14 establish that Experian failed to conduct a reasonable reinvestigation, further  
 15 dooming her 15 U.S.C. § 1681i claim. *Butler*, 2019 WL 2498939, at \*2.

16 Once a consumer notifies a CRA of a purported inaccuracy, a CRA is  
 17 obligated to conduct a reasonable reinvestigation of the disputed information. *See*  
 18 15 U.S.C. § 1681i(a)(1). This obligation is generally satisfied by contacting the  
 19 furnisher, informing it of the consumer's dispute, providing it with all relevant  
 20 information given by the consumer, and requesting that the furnisher verify the  
 21 information. *See generally* 15 U.S.C. § 1681i(a)(2)–(6). As the Ninth Circuit has  
 22 recognized, a "CRA's 'reasonable reinvestigation' consists largely of triggering the  
 23 investigation by the furnisher" because the furnisher "stands in a far better position  
 24 to make a thorough investigation of a disputed debt than the CRA does on  
 25 reinvestigation." *Gorman v. Wolpoff & Abramson, LLP*, 584 F.3d 1147, 1156 (9th  
 26 Cir. 2009); *see also Carvalho*, 629 F.3d at 892; *Boothe v. TRW Credit Data*, 768  
 27 F. Supp. 434, 438 (S.D.N.Y. 1991) (holding that a CRA complies with the  
 28



1 reinvestigation requirements by reinvestigating disputed information with the  
2 source of the information).

3 Here, after receiving Plaintiff's dispute, Experian reviewed the information  
4 provided by Plaintiff and forwarded the dispute via ACDV to GBR. (SOF at ¶ 14.)  
5 The ACDV contained a description of Plaintiff's dispute and attached Plaintiff's  
6 September 7, 2022 Dispute letter. (*Id.*) Experian requested that GBR certify the  
7 payment history and the status of the account. (*Id.*) GBR responded to the ACDVs  
8 and verified its reporting. (*Id.* at ¶ 15.). Experian evaluated GBR's response to the  
9 ACDV in accordance with its own procedures (*id.*), and displayed the account  
10 consistent with GBR's response. (*Id.* at ¶ 17.) After receiving confirmation from  
11 GBR that the information GBR reported regarding Plaintiff's outstanding  
12 collection on her GBR tradeline was accurate, Experian mailed Plaintiff the  
13 reinvestigation results within the 30-day period set out by the FCRA. (*Id.* at ¶ 16.)

14 Courts have repeatedly held that the ACDV process "is an adequate and  
15 reasonable method of reinvestigation by consumer reporting agencies." *Pulley v.*  
16 *Sterling Bancorp*, No. CV 20-6109, 2023 WL 2692386, at \*8 (E.D. Pa. Mar. 28,  
17 2023); *see also Gorman*, 584 F.3d at 1156 ("[T]he furnisher of credit information  
18 stands in a far better position to make a thorough investigation of a disputed debt  
19 than the CRA does on reinvestigation."); *Barron v. Equifax Info. Servs., L.L.C.*,  
20 802 F. App'x 161 (5th Cir. 2020) (noting that the "district court held that a [CRA]'s  
21 reliance on the ACDV system is generally acceptable" and that there was no reason  
22 to find a "need to go beyond the ACDV system as to th[e] dispute"); *Humphrey*,  
23 759 Fed.App'x at 488; *Leoni v. Experian Info. Sols. Inc.*, No. 17-cv-01408-RFB-  
24 VCF, 2019 WL 4866118, at \*5 (D. Nev. Sept. 26, 2019) (finding that "Experian's  
25 reinvestigation, which included contacting the original furnisher and updating the  
26 tradeline in light of [the furnisher's] ACDV response, was a reasonable  
27 reinvestigation"); *Abernathy v. Cont'l Serv. Grp., Inc.*, No. 2:17-cv-00636-APG-  
28 NJK, 2018 WL 3370524, at \*9 (D. Nev. July 9, 2018) ("[Plaintiff] has not shown

1 that Experian’s reliance on ACDVs was unreasonable in this case.”); *Ghazaryan v.*  
 2 *Experian Info. Sols., Inc.*, 740 F. App’x 158, 158 (9th Cir. 2018) (finding CRA’s  
 3 reinvestigation reasonable as a matter of law when CRA used the ACDV process).

4 This case is no exception. Here, the uncontroverted evidence shows that  
 5 Experian’s ACDV request was “reasonably calculated to enable [GBR] to  
 6 investigate [Plaintiff’s] dispute,” and that Experian “had no indication that the  
 7 ACDV process would not suffice.” *Ghazaryan v. Experian Info. Sols., Inc.*, No.  
 8 2:15-CV-9604-RGK-MRW, 2017 WL 5957640, at \*4 (C.D. Cal. Jan. 4, 2017),  
 9 *aff’d*, *Ghazaryan*, 740 F. App’x at 158 (CRA entitled to rely on the furnisher’s  
 10 information because the CRA “had determined [the furnisher] to be a reliable  
 11 source, and [plaintiff] gave [the CRA] no reason to question that determination.”).  
 12 Accordingly, since “only one conclusion” can be reached regarding the  
 13 reasonableness of Experian’s conduct, summary judgment is appropriate here.  
 14 *Ghazaryan*, 2017 WL 5957640, at \*4.

### 15 **III. AT A MINIMUM, PLAINTIFF CANNOT ESTABLISH THAT** 16 **EXPERIAN ACTED WILLFULLY**

17 Plaintiff cannot establish that Experian “willfully” violated the FCRA. *See*  
 18 15 U.S.C. § 1681n. A FCRA violation is willful where it is made either knowingly  
 19 or with reckless disregard for the requirements imposed under the FCRA. *See*  
 20 *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 56–60 (2007). To show that a  
 21 defendant recklessly disregarded the FCRA’s requirements, a plaintiff must show  
 22 that the defendant “ran a risk of violating the law substantially greater than the risk  
 23 associated with a reading [of the FCRA] that was merely careless.” *Id.* at 69.  
 24 Where a CRA’s actions have “a foundation in the statutory text . . . and a  
 25 sufficiently convincing justification,” they are not objectively unreasonable, let  
 26 alone reckless, even if the court disagrees with the justification. *Id.* at 69–70. Even  
 27 an erroneous reading of the statute is not necessarily “objectively unreasonable.”  
 28 *Id.* at 69; *see also Marino v. Ocwen Loan Servicing LLC*, 978 F.3d 669, 673 (9th

1 Cir. 2020) (requiring plaintiffs show “not only that the defendant's interpretation  
 2 was objectively unreasonable, but also that the defendant ran a risk of violating the  
 3 statute that was substantially greater than the risk associated with a reading that  
 4 was merely careless”).

5 Thus, a CRA violates the FCRA willfully only where its acts are established  
 6 as unlawful by either “pellucid” statutory text or “guidance from the courts of  
 7 appeal or the [FTC] . . . that might have warned it away from the view it took.” *Id.*  
 8 at 70. “Merely stating that the violation was ‘willful’ or ‘negligent’ is insufficient.”  
 9 *Abbink v. Experian Info. Sols., Inc.*, No. CV 19-1357-JFW, 2019 WL 6838705, at  
 10 \*5 (C.D. Cal. Sept. 20, 2019) (quoting *Monroe v. Guilford Cty. Dist. Court*, No.  
 11 15-cv-580, 2015 WL 4873002, at \*1–2 (M.D.N.C. Aug. 13, 2015)). The absence  
 12 of willfulness can be resolved as a matter of law. *Id.* at 71 (holding, as a matter of  
 13 law, that the defendant did not recklessly violate the FCRA); *see also Banga v.*  
 14 *Experian Info. Sols., Inc.*, No. C 09-04867 SBA, 2013 WL 5539690, at \*12 (N.D.  
 15 Cal. Sept. 30, 2013) (granting summary judgment in favor of Experian).

16 There is no evidence of willfulness. Longstanding case law establishes that  
 17 CRAs like Experian are not obligated to resolve a consumer’s challenge to the legal  
 18 validity of a debt. *See supra* at pp. 6–8. Experian did not knowingly or recklessly  
 19 violate the FCRA by not doing so here. Nor was it knowing or reckless for  
 20 Experian to rely on the ACDV process to reinvestigate Plaintiff’s dispute, which  
 21 has been affirmed as reasonable by numerous courts. *Ghazaryan*, 740 F. App’x at  
 22 158 (finding CRA’s reinvestigation reasonable when CRA used the ACDV  
 23 process); *Boothe*, 768 F. Supp. at 438 (a CRA complies with the reinvestigation  
 24 requirements by reinvestigating disputed information with the source of the  
 25 information); *Anthony*, 2017 WL 1198499, at \*7 (“Defendant's reliance on the  
 26 ACDV process alone is reasonable under § 1681i as a matter of law.”); *Abernathy*,  
 27 2018 WL 3370524, at \*9 (“[Plaintiff] has not shown that Experian’s reliance on  
 28 ACDVs was unreasonable in this case.”). In light of this case law, Plaintiff cannot

1 demonstrate that Experian's reinvestigation "ran a risk of violating the law  
2 substantially greater than the risk associated with a reading [of the Act] that was  
3 merely careless." *Safeco Ins. Co. of Am.*, 551 U.S. at 69.

4 For all of these reasons, Plaintiff failed to raise a triable issue of fact on the  
5 question of willfulness.

6 **CONCLUSION**

7 For the foregoing reasons, Experian respectfully requests that this Court  
8 grant its Motion for Summary Judgment in its entirety.

9  
10 Dated: May 20, 2024

Respectfully submitted,

11  
12 /s/ Emily Yaron

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 20, 2024, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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